



Law Department

September 2, 2008

Patricia O. Kiscoan
Union Pacific Legal Department
Telephone (402) 544-6302

Sent via e-mail

Mary L. Johnson
General Counsel
National Mediation Board
1301 K Street NW Suite 250 East
Washington, D.C. 20005

Re: Comment on Proposed Changes to Representation Manual

Dear Ms. Johnson:

In response to your request for comment on the National Mediation Board's proposed revisions to the Representation Manual, Union Pacific Railroad Company offers the following comment on Section 2.4. The NMB proposes to use the phrase "substantially accurate" to describe the standard a carrier must satisfy in compiling the list of potential eligible voters or risk an interference charge. Union Pacific's concern is that "substantially" is vague and undefined. In addition, the proposed language does little to further the NMB's legitimate interest in having a list of potential eligible voters that is as close as possible to fully accurate. Good faith mistakes will be made as a carrier compiles these lists, which may include thousands of employees. A good faith mistake made when compiling such a list should not provide organizations with an automatic basis for challenging an election. For all these reasons, Union Pacific suggests that the NMB's proposed language for Section 2.4 be changed to state:

Only when the carrier fails to provide a materially accurate list of potential voters may such a failure support a claim of interference and grounds for setting aside the election. As used herein, "materially accurate" means outcome determinative.

This language will give the carrier protection from spurious interference claims that may be asserted based on the compilation of any list that is not 100 percent accurate but which might have had no effect on the ultimate outcome of the election. In addition, it furthers the NMB's goal of efficiently administering representation elections by conserving its own resources to investigate claims of interference that could have affected the outcome of an election.

Thank you for your consideration of these comments. If you have any questions, please do not hesitate to call me.

Very truly yours,

A handwritten signature in cursive script that reads "Pat Kiscoan".
Patricia O. Kiscoan